

CONTROL COUNCIL
LAW NO. 15
AMENDMENT OF TURNOVER TAX LAWS

THE CONTROL COUNCIL ENACTS AS FOLLOWS:

Article I

1. Turnover tax rates are as follows:

- (a) General - 3%
- (b) Wholesale deliveries - $3\frac{1}{4}\%$
- (c) Deliveries of agricultural and forestry produce - $1\frac{1}{2}\%$
- (d) Enterprises where the total turnover in the preceding calendar year exceeds RM 1,000,000 - $3\frac{3}{4}\%$

2. In pursuance of paragraph 1 of this Article, Section VII of the German Turnover Tax Law of 17 October 1934 (Umsatzsteuergesetz) is amended as follows:

- (a) In subsection (1) amend 2% to 3%
- (b) In subsection (2) amend 1% to $1\frac{1}{2}\%$
- (c) In subsection (3) amend $1\frac{1}{2}\%$ to $3\frac{1}{4}\%$
- (d) In subsection (4) amend $2\frac{1}{2}\%$ to $3\frac{3}{4}\%$

3. For the purpose of the monthly declarations (Vorankündigungen), where the turnover does not exceed RM 75,000 per month, composite rates for enterprises with a mixed turnover are determined in accordance with existing practice (see Section 8 of the Tax Simplification Ordinance of 14 September 1944)

(Steuervereinfachungsverordnung) but will take account of the new rates of tax specified above. Where the turnover amounts to RM 75,000 per month or more, the said Section 8 will no longer apply and the tax must be computed for the monthly declaration in accordance with the actual rates of tax specified above in respect of each class of turnover.

4. When the final declaration (Abschlussanmeldung) is made, adjustment will be made so as to ensure that the correct rates of tax specified above have been correctly applied for each class of turnover and the amount of the tax will be determined accordingly. This applies whether or not the monthly turnover exceeds RM 75,000. The said Section 8 will no longer apply to final declarations and assessments.

Article If

1. All transactions between a parent enterprise and its subsidiaries or between two or more subsidiaries of the same parent enterprise are subject to turnover tax in all instances in which such transactions would be subject to tax if they took place between independent enterprises.

2. Section 2 subsection (2) of the Law of 17 October 1934 (Umsatzsteuergesetz), and Section 17 of the Carrying Out Ordinance (Durchfuhrungsbestimmungen zum Umsatzsteuergesetz) of 23 December 1938, and any other relevant provision of the turnover tax legislation are repealed or amended in pursuance of paragraph 1 of this Article.

Article III

1. The monthly declarations (Vorankmeldungen) and the monthly payment of turnover tax are made by all taxpayers except

(a) Taxpayers whose monthly turnover tax is less than RM 50;

(b) Farmers and Foresters who do not keep books.

2, Section 13 (1) of the Law of 17 October 1934
(Umsatzstouergesetz) is amended accordingly.

Article IV

All other German taxation legislation inconsistent
with this Law is repealed or amended in pursuance of the pro-
visions of this Law.

Article V

The rates of tax specified in this Law will apply
as from 1st January 1946.

Done at Berlin 11 February 1946

s/d P. KOENIG,
General d'Armee

s/d G. ZHUKOV
Marshal of the Soviet Union

s/d JOSEPH T. MCNARNEY
General, U.S. Army

s/d H. M. BURROUGH
Admiral

COORDINATING COMMITTEE
REPLY TO THE JUGOSLAV MILITARY MISSION

The suffering and losses sustained by the people of Yugoslavia during the period of German occupation occasion feelings of the deepest sympathy on the part of the members of the Control Council as well as of the Governments of the four nations which they represent.

Agreement has just been reached in the Control Council on the definition of Restitution. A procedure to implement it is being worked out now and will be made known to interested Governments in the near future.

Approved at Berlin 13 February 1946

CORC/P(46)58

COORDINATING COMMITTEE

RE-ESTABLISHMENT OF AN INTERNATIONAL POSTAL SERVICE

Memorandum by I.A. & C. Directorate

1. The I.A. & C. Directorate are agreed on the necessity for establishing a Postal Service between Germany and the outside world. Initially the service will have to be a restricted one and details are now being worked out by the Postal Subcommittee.

2. When agreement has been reached on matters of detail comprehensive proposals will be placed before the Coordinating Committee for approval. In the meantime it is recommended that the Coordinating Committee approve the following recommendation.

"The Institution of an international postal service for Germany is approved in principle. Target date for the institution of the service will be 1 April 1946 but the service will be put into effect earlier should this prove possible,

The I.A. & C. Directorate will in conjunction with other interested Directorates, and international Agencies prepare comprehensive proposals for the approval of the Coordinating Committee."

Approved at Berlin 13 February 1946

CORC/P(46)60

COORDINATING COMMITTEE
POLICY CONCERNING THE REOPENING OF MUSEUMS IN GERMANY

It is proposed:

1, that, following the principles embodying the spirit of Democracy and Progress and with the object of encouraging scientific and cultural interests, the following categories of museums should be reopened:

- (a) the provincial museums of local interest, exhibiting the character, occupations and dress of the local population;
- (b) the museums of natural history and arts;
- (c) the museums dedicated to the memory of the great progressive benefactors of the German race;

2. that the exhibition for propaganda purposes in the museums, of objects, documents, etc. setting forth any anti-democratic, militaristic or racially prejudiced ideology, or suggesting ideas which, in essence or in spirit, are incompatible with democracy as applied to peoples or nations, shall be strictly forbidden.

Approved at Berlin 16 February 1946

CORC/P(46)61

COORDINATING COMMITTEE
JOINT USE OF THE LIBRARY OF THE UNIVERSITY OF BERLIN

It is recommended:

That the books of the Library of the University of Berlin should be made available to all the accredited personnel of the four occupying powers.

Approved at Berlin 16 February 1946

CORC/P(46)62'

COORDINATING COMMITTEE

DRAFT REPORT TO THE COORDINATING COMMITTEE FROM THE POLITICAL
DIRECTORATE ON THE ESTABLISHMENT OF INTERIM OFFICES FOR GERMAN
AFFAIRS IN UNITED NATIONS AND NEUTRAL COUNTRIES

1. As a result of the capitulation of Germany, the authority which German Diplomatic and Consular Missions exercised over German nationals in foreign countries disappeared. Consequently in some countries German affairs are at present in the hands of the host Governments, while in others the diplomatic representatives of the Four Control Powers have appointed Committees composed of members of their staffs as a stop gap.

2. The United States Government, considering that this unsatisfactory state of affairs should not be allowed to continue, took the initiative in devising a scheme for the establishment of Interim Offices for German Affairs abroad. This scheme was discussed with the United Kingdom Government and was then raised in the Political Directorate by the United States member so that a plan might be worked out and submitted in final form to the Coordinating Committee.

3. In its present form the scheme envisages the establishment in a number of foreign countries of Interim Offices for German Affairs which would control local Germans and would perform certain essential quasi-consular functions for them. These would include the registration and recording of births, marriages and deaths, passport and property control, arrangements for repatriation and transmission of subsistence remittances, but they would not include the issue of travel documents (except to Germany) or property enquiries or protection or financial aid for Germans. United Nations Governments would operate these offices themselves in their territory, whereas in neutral and certain ex-enemy countries they would be directed by the local representatives of the Four Control Powers, or by the Allied Control Commissions in those countries. Each Control Power would make its own arrangements for carrying out these functions in its own territory.

4. During the discussions which have taken place in the Political Directorate on the detailed organisation of this scheme it has become clear that some form of central office in Berlin, acting as a subsidiary organisation under the Allied Control Authority, will be required to co-ordinate the work of the offices abroad, and to reply to the requests for guidance which will inevitably be received from them. While it would be contrary to Allied Policy to reconstruct the former German Foreign Office, the Directorate consider that a bureau organised on the following lines will be required.

5. The work of this bureau should be supervised by a committee composed of a diplomatic or consular officer from each of the four Control Powers which would meet at regular intervals. This committee would report to the Political Directorate and would form an integral part of the Allied Control Authority.

6. Under this committee would be a permanent Allied official (possibly with assistants) from one of the Control Powers who would act as the executive officer of the bureau and at the same time as secretary of the committee. He would be assisted by such Allied staff as was found necessary.

7. Under the authority and control of these Allied officials would be the minimum number of reliable German ex-officials and clerical staff capable of carrying out the work of the Bureau. On account of the denazification regulations these German officials would be of junior rank. It might, however, be possible to find trustworthy senior officials who had resigned from the German Foreign Service before or shortly after 1933 and who were acceptable to all four Control Powers.

8. Before proceeding further with the detailed planning necessary to implement a scheme as outlined above the Political Directorate would be glad to know whether the Coordinating Committee approves:

- (a) the principle of the plan for Interim Offices for German Affairs abroad as outlined in paragraph 3 above.
- (b) the principle of a Bureau in Berlin as outlined in paras 4, 5, 6 and 7 above.

Approved at Berlin 16 February 1946

CORC/F(46)65

COORDINATING COMMITTEE

INDUSTRIES TO BE ELIMINATED OR RESTRICTED TO DOMESTIC
REQUIREMENTS FOR INDUSTRIAL DISARMAMENT REASONS

The following agreements regarding measures of industrial disarmament apply only to the determination of the permitted level of industry for Germany in connection with the reparations programme. These agreements do not exclude other industrial disarmament measures which can and should be undertaken within the limitations of the level of industry finally agreed upon.

A. Production of the following will be entirely prohibited :-

- (1) War Materials as specifically defined by the appropriate quadripartite authority.
- (2) Sea-going ships (not interpreted to include small fishing vessels).
- (3) Magnesium
- (4) Primary aluminum and alumina for the purpose of producing aluminum.
- (5) Beryllium
- (6) Vanadium produced from Thomas slags.
- (7) Radio-active materials.
- (8) Hydrogen peroxyde above 50% strength.
- (9) Radio transmitting equipment.
- (10) Heavy agricultural tractors having a greater capacity than those defined in E (6).
- (11) Heavy machine tools of the size and type prohibited by E (1).

B. Production of the following ~~will~~ be permitted only until sufficient imports can be obtained:-

- (1) Synthetic gasoline and oil
- (2) Synthetic rubber
- (3) Ball and taper roller bearings.

C. Production of television reception equipment will be permitted only in specific plants under direct supervision and control.

D. Production of synthetic ammonia will be permitted until exports can be found to pay for required ~~h~~-ports of nitrogen as well as for all other necessary imports. To the extent to which synthetic ammonia production is not eliminated, it will be limited to not more than that amount necessary to meet Germany's peacetime requirements.

E. Production of the following will be restricted to not more than that amount necessary to meet Germany's peacetime requirements:-

- (1) Machine tools, limited as regards type and size by the Allied Control Authority.
- (2) Heavy machinery and equipment (including Diesel engines).
- (3) Locomotives
- (4) Railroad rolling stock of standard gauges
- (5) Heavy chemicals, including but not limited to sulphuric acid, chlorine, calcium carbide, methanol, and hydrogen peroxyde below 50% strength
- (6) Agricultural tractors limited as regards capacity by the Allied Control Authority
- (7) Heavy construction equipment including heavy cranes and multiple bucket excavators.
- (8) Radio receiving sets having characteristics defined by the Allied Control Authority.
- (9) Automobiles, trucks and buses.
- (10) Raw optical glass.

No new locomotives are to be built until after existing repairable locomotives have been repaired and locomotive requirements can no longer be met from such repaired locomotives. In the interim, locomotive manufacturing facilities which will be left in Germany are to be used for repair work.

Approved at Berlin 16 February 1946

CORC/P(46)44

CONTROL COUNCIL

LAW NO. 16

MARRIAGE LAW

Part One

RIGHT TO CONTRACT MARRIAGE

A. NUBILITY

Section 1.

Marriageable Age

1, A man shall not contract marriage before the completion of his twenty-first year, nor a woman before the completion of her sixteenth year,

2, The man and the woman can be exempted from this provision, but the man only if he has completed his eighteenth year and is no longer subject to parental authority, or under the care of a guardian.

Section 2,

Legal Incapacity

No one under legal incapacity may contract a marriage.

Section 3.

Consent of the legal representative and the competent tutor

1. A minor, or anyone whose legal capacity is limited on other grounds may only contract marriage with the consent of his legal representative.

2 If the legal representative is not, at the same time, responsible for the custody of the person of the minor, or if the responsibility for such custody is shared with another party, then the consent of the other party must also be obtained.

3. Should the Legal representative or the person having the right of custody withhold consent without sufficient reason, then, on the application of the betrothed party requiring permission, it may be supplied by the Judge of the Guardianship Court.

B. MARRIAGE PROHIBITIONS

Section 4.

Consanguinity and Affinity

1. A marriage may not be contracted between relations in a direct line, between full and half-brothers and sisters, nor between relations by marriage in a direct line, no matter whether the relationship is the result of legitimate or illegitimate birth.

2. Marriage may not be contracted between persons where one party has had sexual intercourse with parents, grandparents or descendants of the other party.

3. Exemption may be granted in respect of the prohibition against marriage of relatives by marriage.

Section 5.

Bigamy

No one may contract a marriage until his former marriage has been declared void or has been dissolved.

Section 6.

Adultery

1. A marriage may not be contracted between a person who has been divorced for adultery and the person with whom the adultery was committed, if the divorce judgment gives this act of adultery as the ground for the divorce,

2. Exemption from this provision may be granted and may only be refused if there are serious reasons against the contract-
ion of the new marriage.

Section 7.

Adopted Children

A marriage shall not take place between an adopted child and its descendants on the one hand and the adopter on the other hand, so long as the legal status of this adoption continues.

Section 8.

Waiting Period

1. A woman shall not re-marry within ten months of the dissolution of her previous marriage or its declaration as null and void, unless she has meanwhile given birth to a child.

2. Exemptions may be granted in respect of this provision,

Section 9.

Clearing certificate from judge of the Guardianship Court

A person who has a legitimate child who is a minor or is under his guardianship, or a person who lives holding for a continuing period joint property with a descendant who is a minor or a ward, shall not marry before he has produced a certificate from the Guardianship Judge, to the effect that he has fulfilled all the duties incumbent on him in respect of the child or descendant, arising out of his re-marriage, or that he has no such obligations,

Section 10.

Certificate of nubility for Foreigners

1. Foreigners shall not contract marriage before they have produced a certificate from the domestic authorities of their native country stating that there are no legal impediments to the marriage in the law of that country,

2. Exemptions may be granted in respect of this provision,

C. CONTRACTION OF MARRIAGE

Section 11.

1. A marriage shall come into existence only if the ceremony has been performed before a registrar.

2. A registrar within the meaning of Subsection (1) also includes anyone who, though not a registrar, has publicly discharged the functions of registrar and entered the marriage in the family register.

Section 12.

Banns

1. The celebration of marriage shall be preceded by banns. The banns will lapse if the marriage does not take place within six months of their final publication,

2. The marriage can take place without banns if the dangerous illness of one of the contracting parties does not permit of postponement of the marriage.

3. Exemption from banns may be granted.

Section 13.

Form of Marriage Ceremony

1. The marriage is concluded by the contracting parties declaring personally and in the presence of each other before the registrar that they wish to marry each other.

2. The declarations cannot be subject to any conditions or to any stipulation as to time.

Section 14.

Marriage Ceremony

1. The Registrar shall, in the presence of two witnesses, ask the contracting parties individually, one after the other, whether they wish to marry each other, and after they have replied in the affirmative, shall state, in the name of the law, that they are now a legally united married couple,

2. The registrar shall enter the marriage in the family register.

Section 15.

Competence of the Registrar

1. The marriage shall be concluded before the competent registrar,

2. The competent registrar is the one in whose district one of the contracting parties is domiciled or usually resides. If these are several competent registrars, the choice rests with the contracting parties,

3, If neither of the contracting parties is domiciled or usually resides in this country, then the competent authority to conduct the marriage ceremony in this country is the registrar of the Registrar's Office I in Berlin or the Head Registrar's Offices in Munich, Baden-Baden and Hamburg.

4. With a written authorization from the competent registrar, the marriage can also be contracted before the registrar of another district.

D. NULLITY OF THE MARRIAGE

I. Ground for Nullity

Section 16,

A marriage is void only in the cases set out in Sections 17 to 22 of this Law.

Section 17.

Lack of Form

1. A marriage is void if it has not taken place in the form prescribed in Section 13.

2. The marriage is, however, to be regarded as valid from the beginning if the married couple have lived together as man and wife for five years after contracting the marriage, or in the case of the previous death of one of them, up to the time of such death, but in any event for at least three years, unless before the end of the five years or at the time of the death of one of the parties, a nullity action has been started.

Section 18.

Legal incapacity and incapacity of judgment

1. A marriage is void if one of the parties at the time of the marriage was under legal incapacity, or was in a state of unconsciousness or his mental faculties were temporarily disturbed,

2. The marriage is, however, to be regarded as valid from the beginning, if the party affected, on recovering from his legal incapacity, his state of unconsciousness or the disturbance of his mental faculties intimates that he is willing to continue in the married state.

Section 19.

Marriage for the purpose of acquiring a name

1. A marriage is void if it has been contracted solely or primarily with the purpose of enabling the wife to bear the surname of the husband without the establishment of conjugal relations.

2. The marriage is, however, to be regarded as valid from the beginning, if the married couple have lived together as man and wife for five years after marriage, or in the case of the previous death of one of them, up to the time of such death, but in any event for at least three years, unless at the end of the five years, or at the time of the death of one of the parties, a nullity action has been started,

Section 20.

Bigamy

A marriage is void, if at the time of the marriage one of the contracting parties **was** lawfully married to a third party.

Section 21.

Relationship by consanguinity and affinity

1, A marriage **is** void **if** it **was** contracted between relations by blood or marriage, **in** violation of the prohibition contained **in** Section 4.

2 A marriage between relations by marriage is, however, to **be** regarded as valid from the **beginning**, **if** exemption under the provision of Section 4 Subsection 3 is subsequently granted.

Section 22.

Adultery

1. A marriage is void **if** it was forbidden on **account** of adultery under Section 4.

2, The marriage **is**, however, to be regarded as **valid** from the beginning **if** subsequent exemption under **the** provision of Section 6 Subsection 2 is granted,

II. Assertion of Nullity

Section 23.

No one can assert that a marriage is void so long as the marriage has not been declared void by a decision of the Court,

Section 24.

Right of Action

1. In cases of nullity the Public Prosecutor and each of the married parties, and, in case specified in Section 20, also the partner of the former marriage, may bring a nullity action. If the marriage has been dissolved, then only the Public Prosecutor can bring the action for nullity.

2. If both partners have died, an action of nullity can no longer be brought.

III. Consequence of Nullity

Section 25.

Legal Status of the Children

1. A child born of a marriage which is void is regarded as legitimate to the extent to which it would have been legitimate if the marriage had been valid.

2. The right to the custody of the person of a child will be determined by applying the provisions which would be applicable in the case of divorce. The party who knew of its nullity at the time when the marriage was contracted is placed in the position of a party found guilty in divorce proceedings,

3. Any marriage partner who at the time of contracting the marriage had knowledge of its nullity is barred from the right of administration and usufruct of the child's property and from representing the child in legal matters pertaining to the child's property.

Section 26.

Relationship between the marriage partners in
respect of property rights

1. Even if only one of the marriage partners had no knowledge of the nullity of the marriage at the time when it was contracted, the provisions governing divorce with respect

to the property rights of the marital partners shall apply correspondingly. In such a case the partner who at the time that the marriage was contracted had knowledge of the nullity is to be considered as the guilty party.

2. A marriage partner who had no knowledge that the marriage was void at the time it was contracted may within six months of the marriage having been finally declared void, declare to the other partner that the consequences of nullity shall remain unaffected as regards their relationship and With respect to property rights. Where such a declaration is made, the provisions of Subsection I do not apply.

Section 27.

Protection of third parties acting in good faith

As against a third party a legal transaction between him and one of the marriage partners, or any court judgment in which they were involved, can be contested only if the marriage had been declared void at the time the legal transaction was concluded, or if the court action had been pending, or if the nullity was known to the third party.

E. ANNULMENT OF THE MARRIAGE

I. General Provisions

Section 28.

Annulment of the marriage can be sought only in the cases specified in Sections 30 - 34 and 39 of this law.

Section 29.

A marriage is annulled by a decision of the Court. It is dissolved at the time when the judgment has come into force,

II. Grounds for annulment

Section 30

Lack of consent of the legal representative

1. A marriage partner can seek annulment of the marriage if, at the time of contracting the marriage or, in the case of Section 18, Subsection 2, at the time of confirmation, his legal capacity was limited and the consent of his legal representative to the marriage, or its confirmation, had not been given. So long as the marriage partner is limited in his legal capacity, only his legal representative can seek annulment of the marriage.

2. Annulment is inadmissible if the legal representative gives his consent to the marriage or if the marriage partner having his acquired legal capacity, has intimated his willingness to continue in the married state.

3. Where the legal representative withholds his consent, without sufficient grounds, the guardianship judge may on the application of one of the marriage partners, give his consent instead.

Section 31.

Error regarding the celebration of marriage or regarding the identity of the other party

1. A marriage partner can seek annulment of the marriage if at the time of marriage he was not aware that a marriage was being celebrated or if though he was aware of it, was unwilling to declare his willingness to enter into the marriage. The same applies if the marriage partner has made an error with regard to the identity of the other partner,

2. Annulment is inadmissible if the marriage partner, after discovering his error, has intimated his willingness to continue in the married state.

Section 32.

Error regarding the personal characteristics of the other partner

1, A marriage partner can seek annulment if at the time of the marriage he made an error regarding such personal characteristics of the other partner which, had he known the facts and intelligibly understood the essential meaning of marriage, would have deterred him from contracting the marriage.

2. Annulment is inadmissible if the partner, after discovering the error, has intimated his willingness to continue in the married state, or if his request for annulment would not, having regard to the manner in which the married life of the parties had hitherto been conducted appear to be morally justified,

Section 33.

Wilful deceit

1, A marriage partner can sue for annulment of the marriage if, at the time of the marriage he was wilfully deceived regarding such circumstances which, had he known the state of affairs and intelligibly understood the essential meaning of marriage, would have deterred him from contracting the marriage,

2. Annulment is inadmissible if the deceit has been practised by a third party without the knowledge of the other marriage partner, or if the marriage partner, on discovering the deceit, has intimated his willingness to continue in the married state.

3. Annulment is inadmissible on the ground of deceit regarding financial circumstances.

Section 34.

Threat

1, A marriage partner can sue annulment if he has been illegally induced by threats to contract the marriage.

2. Annulment is inadmissible if the marriage partner, after the duress resulting from such threats has ceased, has intimated his willingness to continue in the married state.

III. Filing of Application for Annulment

Section 35.

Time limit for application

1. An application for annulment can be filed only within one year.,

2. This period begins to run in cases under Section 30, at the time when the marriage or the confirmation of the marriage becomes known to the legal representative or when the marriage partner acquires unlimited legal capacity; in cases under Sections 31 - 33, at the time when the marriage partner discovers the error or deceit; in the case under Section 34, at the time when the duress ceases.

3. The running of the period is suspended while the marriage partner entitled to file such an application is prevented from so doing by circumstances beyond his control within the last six months of the period.

4. If a marriage partner entitled to file such an application is legally incapacitated and has no legal representative, the period does not come to an end until six months after the time when the married partner is capable of filing the application himself or when representation becomes available.

Section 36.

Failure on the part of the legal representative to file an application within the period

In the event of failure on the part of the legal representative of a legally incapacitated marriage partner to file the application for annulment within the prescribed time, the marriage partner himself can file the application for the annulment at any time within six months after his legal incapacity has ceased.

IV. Consequences of Annulment

Section 37.

1. The consequences of annulment of a marriage are governed by the provisions relating to the consequences of divorce.

2. In cases under Sections 30 - 32, the partner who, at the time of marriage, had knowledge of the grounds for annulment, is to be considered the guilty party; in cases under Sections 33 and 34, the marriage partner who committed, or had knowledge of the deceit or the threat, is to be considered the guilty party,

F. RE-MARRIAGE IN THE CASE OF DECLARATION OF DEATH

Section 38,

1. Where a marriage partner re-marries - the other partner having been declared dead - the new marriage is not void on the grounds that the partner declared dead is still alive, unless both partners to the new marriage knew at the time of marriage that he was still alive at the time he was declared dead.

2, The former marriage is dissolved by the new marriage. It remains dissolved even if the official declaration of death is annulled,

Section 39.

1, If the marriage partner declared to be dead is still alive, the former spouse can seek annulment of the new marriage unless he know at the time of marriage that the marriage partner declared to be dead was still alive at the time when he was officially declared dead.

2. If the former spouse avails himself of his right in accordance with Subsection 1, and if the new marriage is annulled, he can contract marriage, as long as the former marriage partner is still alive, only with the latter. In other respects the consequences of annulment are governed by Section 37.

Section 40.

If a marriage has been dissolved under Section 38, Subsection 2, the right to the custody of the person of a child of this marriage and the obligations of one of the parties to contribute towards the maintenance of that child are regulated in the same way as if the parties had been divorced without any declaration as to their guilt.

Part Two

LAW OF DIVORCE

A. General Prsvisions

Section 41

The marriage partners are divorced by a decision of the Court. A marriage is dissolved at the time when the judgment comes into force, The conditions under which divorce can be sought are set out in the following provisions.

B. Grounds for divorce

I, Divorce on grounds of guilt (violation of marriage duties)

Section 42

Adultery

1. A marriage partner can petition for divorce if the other partner has committed adultery,

2. He has no legal right to divorce if he consented to the adultery or if by his conduct he intentionally made it possible or facilitated it,

Section 43.

Other violations of marriage duties

A marriage partner can petition for divorce if the other partner, through serious violations of marriage duties or through disreputable or immoral conduct, is guilty of having disrupted the foundations of the marriage to such an extent that the restoration of common life in the true conjugal sense can no longer be expected, Any partner who has himself been guilty of such a violation cannot petition for divorce, if on a true assessment of the significance of marriage the nature of his violation does not morally justify his request for divorce, especially if there should be a connection between his violation and that of his partner,

11. Divorce on other grounds

Section 44.

Conduct due to mental derangement

A marriage partner can petition for divorce if, owing to the conduct of the other partner which cannot be considered as a violation of marriage duties because it arises from the mental derangement, the foundations of marriage have been disrupted to such an extent that restoration of common life in true conjugal sense can no longer be expected.

Section 45.

Mental Diseases

A Marriage partner can petition for divorce if the other partner is suffering from a mental disease which has reached such a stage as to make spiritual companionship impossible and unlikely to be restored.

Section 46,

Contagious and repulsive diseases

A marriage partner can petition for divorce if the other partner is suffering from a severe contagious or repulsive disease which cannot be expected to be cured or rendered innocuous within a reasonable time,

Section 47.

Prevention of Hardship

In cases under Sections 44 - 46, divorce is not admissible if the petition for divorce cannot be morally justified. As a rule this must be assumed if the dissolution of the marriage would cause exceptional hardship to the other partner. Whether this is the case depends on circumstances, in particular the duration of the marriage, the age of the marriage partners and the circumstances in which the disease was contracted.

Section 48.

Cessation of domestic life

1. If the marriage partners have not kept a common household for three years and if, owing to a deep-rooted, incurable disruption of marital relations, restoration of common life in the conjugal sense cannot be expected, either of the marriage partners can petition for a divorce,

2. If the action of the marriage partner seeking divorce wholly or predominantly caused such a disruption, the other partner can oppose the divorce. Such opposition must be disregarded if maintenance of the marriage does not appear to be morally justified on a true assessment of the significance of marriage and of the mutual conduct of both partners.

3. The petition for divorce must not be granted if on a true understanding of the interests of one or several minor children of this marriage, the maintenance of the marriage is required.

C. Exclusion of the right to divorce

Section 49.

Condonation

The right to a divorce on the ground of guilt does not exist if from the conduct of the injured partner it can be inferred that he has condoned the violation or has not considered it to have disrupted the marriage.

Section 50.

Period of Limitation

1. The right to a divorce on the ground of guilt lapses if the marriage partner does not file a petition within six months. The period begins to run from the time when the ground for divorce becomes known to him. The period does not run while the partners ceased to keep a common household. If the guilty

party requires the other party to re-establish a common household or to file a divorce petition, the period begins to run from the date of the receipt of this demand,

2. Divorce is no longer admissible if ten years have elapsed from the date of the occurrence of the ground for divorce,

3. An application for judicial conciliation has the same effect as the filing of a petition for divorce provided the summons is issued without delay. The application loses this effect if the applicant does not appear at the conciliation hearing or the petition is not filed within three months of the conclusion of the conciliation proceedings.

4. Section 35, Subsections 3 and 4, are applicable to the six and three months periods of limitation.

Section 51.

Subsequent reliance on grounds for divorce in the case of divorces on grounds of guilt

1. After the expiry of the periods referred to in Section 50, a ground for divorce can still be pleaded during divorce proceedings if the period had not expired at the time of the filing of the petition,

2. Violations of marriage duties on which a divorce petition can no longer be based, may, even after the expiration of the periods of limitation specified in Section 50, be pleaded in support of a divorce petition based on other violations of marriage duties.

D. Findings of Guilt

Section 52.

Divorce on grounds of guilt

1. If a divorce is granted by reason of the guilt of the defendant, this must be stated in the judgment.

2. If the defendant has made counter-charges and a divorce is granted on account of the guilt of both partners to the marriage, then both are to be declared guilty. If the guilt of one party is substantially graver than that of the other party, then it must also be stated that his guilt outweighs that of the other party.

3. Even if no counter-charge is made, the joint guilt of the plaintiff must be declared on the application of the defendant if the divorce is granted owing to a violation on the part of the defendant, who at the time of filing the petition, or later, would himself have had grounds for divorce on account of guilt. In the event of the defendant at the time petition was filed having already forfeited his right, to seek divorce on grounds of guilt on the part of the plaintiff, the application must nevertheless be granted if this should be considered fair; Subsection 2, Sentence 2 of this Section and Subsection 3 of Section 50 shall apply correspondingly.

Section 53.

Divorce on other grounds

1. If a divorce is granted on the strength of a charge and counter-charge, and if only one of the marriage partners is found guilty, this must be stated in the judgment.

2. If the divorce is granted merely on the strength of the provisions contained in Sections 44 - 46 and 48, and if the defendant, at the time the petition was filed or later, could have petitioned for divorce on the ground of the plaintiff's guilt, the judgment, even if no counter-charge has been made, must on the application of the defendant state that the plaintiff has been found guilty. If the right of the defendant to petition for divorce on the ground of the plaintiff's guilt had already been forfeited at the time the petition was filed, the application must nevertheless be granted if this should appear to be fair. Section 50, Subsection 3 shall apply correspondingly.

E, Consequences of Divorce

I, Name of the divorced wife

Section 54.

Principle

The divorced wife retains the surname of her husband.

Section 55.

Resumption of a former name

1. A divorced wife may resume her maiden name by making a declaration before a registrar. The declaration requires public certification .

2. Similarly she may resume a former surname acquired through a previous marriage if there are descendants of that marriage. Resumption is inadmissible if the wife has been found wholly or predominantly guilty.

Section 56.

Refusal by the husband to allow retention of his name

1, If the wife has been found solely or predominantly guilty, the husband may, by declaration before a registrar, forbid her to retain his surname. This declaration requires public certification. The registrar must notify the wife of this declaration,

2. On the loss of her husband's name the wife resumes her maiden name.

Section 57.

Refusal by the Guardianship Court to allow retention of name

1. If after divorce the wife is found guilty of a serious lapse against her former husband, or if she, against his will, leads a disreputable or immoral life, the Guardianship Court may, upon application by the former husband, forbid her to retain his surname.

2. Subsection 1 is also applicable if the wife has resumed a surname acquired through a previous marriage under Section 55, Subsection 2.

3. The decision forbidding the retention of the name comes into force only after the decision has become final. The wife thereupon resumes her maiden name.

II. Alimony

e. Obligation to pay alimony in case of divorce on grounds of guilt

Section 58,

1. A husband who has been found solely or predominantly guilty must pay alimony to his divorced wife commensurate with the standard of their married life, in so far as the income from property and earnings from any occupation of the divorced wife are insufficient.

2. A wife who has been found solely or predominantly guilty must pay adequate alimony to her divorced husband in so far as he is incapable of supporting himself,

Section 59.

1. Should the payment of the alimony fixed in Section 58 impair the means for the reasonable maintenance of the married partner who has been found solely or predominantly guilty, having regard to any other obligations he may have, he need only pay so much as is equitable, having regard to the needs of the divorced couple and their circumstances as regards property or earnings from any occupation. If the person under the obligation of alimony has to support a minor unmarried child, or if remarried, to support the new marital partner, the needs and the economic circumstances of these persons are to be considered.

2. In the circumstances set out in Subsection 1, the husband is released from any obligation to pay alimony if the wife can provide for her own maintenance from income derived from her own property.

Section 60.

In the event of both marriage partners having been found guilty but neither predominantly guilty, the marriage partner who cannot provide for his own maintenance may be awarded a contribution towards his maintenance if and in so far as this is equitable, having regard to the means and earnings of the other party to the marriage and of those relations who are under an obligation to provide maintenance under Section 63. The obligation to make such a contribution can be limited to a certain period. Section 59, Subsection 1, Sentence 2 shall apply correspondingly.

b. Obligation to pay alimony in cases of divorce on other grounds

Section 61.

1. If divorce was granted solely on one of the grounds specified in Sections 44 - 46 and 48, and if the judgment contains a finding of guilt, the provisions of Sections 58 and 59 shall apply.

2. If the judgment does not contain a finding of guilty, the married party petitioning for divorce must pay alimony to the other partner if and in so far as this is equitable, having regard to the means and earnings of the divorced couple and of those relations who are liable to provide maintenance for the party entitled under Section 63. Section 59, Subsection 1, Sentence 2 and Subsection 2 shall apply correspondingly.

c. Mode of payment of alimony

Section 62.

1. Alimony must be paid by means of regular cash payments. Payments have to be made monthly in advance. If it is apprehended that the debtor intends to evade his maintenance obligations, he must provide security. The manner in which security is to be provided is determined according to the circumstances.

2. The beneficiary may demand a lump sum in lieu of monthly payments if there is sufficient reason for this demand and if the debtor is not unfairly burdened thereby.

3. The debtor is liable for the fully monthly instalment even in the event of death of the beneficiary in the course of the month.

Section 63.

1. The divorced party who is under an obligation to pay alimony is liable to do so before the relatives of the beneficiary become liable. In so far, however, as the debtor's own reasonable maintenance would be imperilled taking into consideration his other obligations, the relations shall be liable in the first instance. So far as the divorced party has no claim to alimony against the other party, the relatives of the party entitled to maintenance must provide maintenance according to the general provisions concerning the liability for maintenance.

2. The relatives shall also be liable if legal proceedings in this country against the marriage party is liable are impossible or of considerable difficulty. In such a case the claim against the marriage partner is transferred to the relative who has provided the maintenance. The transfer cannot be relied upon to the disadvantage of the beneficiary,

Section 64.

The party entitled can claim arrears of payments or damages for non-fulfilment only from the time when the party liable defaulted or the court became seized of the claim for alimony; and in the case of periods exceeding one year prior to the date when the court was seized, only if it can be presumed that the party liable has purposely evaded payments.

d. Limitation and lapse of claims for alimony

Section 65.

Indigence due to the fault of the party entitled

1. A party entitled to alimony whose indigence is due to immoral conduct can claim alimony sufficient only for the bare necessities of life.

2. Additional requirements caused by any grave fault of the party entitled do not justify a claim to increased maintenance.

Section 66.

Forfeiture

The party entitled forfeits his claim to alimony if after divorce he becomes guilty of a serious lapse against the party liable or if against the wishes of the other party he leads a disreputable or immoral life.

Section 67.

Re-marriage of the party entitled

The obligation to pay alimony lapses on the re-marriage of the beneficiary.

Section 68.

Re-marriage of the party liable

In the event of the party liable re-marrying, the provisions of Section 1604 of the "Bürgerliches Gesetzbuch" concerning the effect of the marriage property system on the obligation of maintenance shall apply correspondingly.

Section 69

Death of the Beneficiary

1. The claim to alimony expires with the death of the beneficiary. Only a claim for arrears of payments or damages for non-fulfilment, or a claim for amounts due to the beneficiary on the date of his death, remain valid after his death.

2. The party liable is responsible for funeral expenses in so far as this is equitable, and only if they cannot be recovered from their heirs.

Section 70.

Death of the party liable

1. On the death of the party liable the obligation to pay alimony is transferred to the heirs as a liability attaching to the inheritance.

2. The responsibility of the heir is not limited by Section 59. The beneficiary must, however, submit to any reduction of payment which may appear equitable, having regard to the circumstances of the heir and the yield of the estate,

3. An obligation to contribute imposed on a party to the marriage by Section 60 lapses on the death of the party liable,

e. Contribution towards the maintenance of children

Section 71.

1. If one of the divorced parties has to provide maintenance for a child born of the marriage, the other party must make a contribution, commensurate with the income from his property and from the earnings of his occupation, towards the cost of such maintenance, in so far as this is not covered by the usufruct of the child's property. This claim is not transferable.

2. If the party liable to make that contribution has the custody of the person of the child, he may retain the contribution for the purpose of applying it to the maintenance of the child.

f. Contracts in respect of alimony

Section 72.

The marriage partners may enter into an agreement in respect of the obligation to pay alimony after the divorce. If such an agreement has been made before the judgment becomes final, it shall not be void merely because it facilitated or made possible the divorce; it shall, however, be void if the marriage partners in connection with it have relied on a ground for divorce which was non-existent or no longer exists; or if in other respects the contents of the agreement or other circumstances of the case indicate that the agreement is contrary to morality,

g. Return of gifts

Section 73.

1. In the case of one partner only having been found guilty, the other marriage partner may demand the return of gifts made by him during the period of their engagement or marriage, with the exception of gifts of no substantial, pecuniary or sentimental value. The provisions of Section 531 of the "Buergerliches Gesetzbuch" shall apply.

2. Such claims are inadmissible if a period of one year from the date when the divorce judgment became final has elapsed, or if either donor or recipient has died.

III. Relationship to children

Section 74.

Care of the child

1. Where in a divorce no agreement has been reached between the parties, the Guardianship Court decides to which of them shall be given the custody of the child or children of the marriage. Agreement between the parties must be submitted to the Guardianship Court for approval in the form of a written proposal within a period of two weeks from the time when the divorce became final,

2. If such an agreement is not submitted within the period specified in Subsection 1 or is not approved by the Guardianship Court; the latter shall make such an order as is consistent with the best interests of the child or children, having regard to all circumstances. For this purpose the Court may make personal contact with the children.

3. The divorce parties should be personally heard before such a decision is made. Such a hearing shall be dispensed with only if it cannot be arranged.

4. Custody shall be given to the party who has been found solely or predominantly guilty only if this is, for special reasons, in the best interests of the child or children.

5. The Guardianship Court may give the custody of the child to a curator if, for special reasons, the well-being of the child or the children requires this.

6. The Guardianship Court may vary its order at any time should it deem this advisable in the interest of the child or the children.

Section 75.

Personal access to the children

1. The party who has not the custody of the child born of the marriage retains the right to have personal access to it,

2. The Guardianship Court may regulate in detail the manner in which the access is to take place. It can, for any period or permanently, forbid this access if this is for special reasons in the interest of the well-being of the child,

F. Right to separation after forfeiture of the right to a divorce

Section 76.

When the right to divorce has been forfeited through condonation or through lapse of time, the rights and duties of such marital partners shall be the same as if the forfeited right to divorce had never existed.

Part Three

ACTIONS FOR MITIGATION OF HARDSHIP

Section 77.

1. Judicial decisions relating to family rights based on such provisions of the "Gesetz zur Vereinheitlichung des Rechts der Eheschliessung und der Ehescheidung im Lande Oesterreich und im uebrigen Reichsgebiet", dated 6th July 1938, (RGBl I.p.807), which are contained neither in the Buergerliches Gesetzbuch nor in this law, and judicial decisions based solely or predominantly on racial, political or religious grounds may be contested by either of the parties injured by such a decision, as well as by

the children of the marriage or by the Public Prosecutor (action for mitigation of hardship).

2. The action for mitigation of hardship must be brought within two years of the coming into force of this law in the court which made the decision so contested. Where this is impossible or impracticable, the President of the Oberlandesgericht in whose district the contesting party is domiciled shall decide which court is competent to deal with the action.

3. The contesting party may in such an action claim compensation for material damage inequitably suffered by him and demand the removal or mitigation of such hardships as adversely affect his personal position,

4. No claim for restoration of a marriage which has been declared void or has been annulled or dissolved through divorce can be made.

5. The discretionary decision of the court should be guided by the principles of equity and should take into consideration all circumstances which have led to the disadvantage suffered by the contesting party. In particular it may award appropriate compensation for damage inequitably suffered during the period subsequent to the pronouncement of the decision contested and give the contesting party such rights as may be claimed under this law by the innocent party in a divorce suit.

6. In other respects the provisions of the "Zivilprozessordnung" shall apply to an action for the mitigation of hardship.

Part Four

ADDITIONAL PROVISIONS

Section 78.

The repeal of Sections 1303 - 1352, 1564 - 1587, 1608 Subsection 2, and Sections 1635 - 1637, 1699 - 1704, 1771, Subsection 2, Sentence 2, of the Buergerliches Gesetzbuch, Article II, Sections 1 and 2, of the Gesetz gegen Missbraeuche bei der Eheschliessung und der Annahme an Kindes Statt" dated 23rd November 1933 (RGBl I. p.979) and Article I of the "Gesetz ueber die Aenderung und Ergaenzung familienrechtlicher Vorschriften

und uebor die Rechtsstellung der Staatenlosen" dated 12 April, 1938, (RGBl I.p.380) is not affected by this law.

Section 79.

The "Gesetz zur Vereinheitlichung des Rechts der Eheschliessung und der Ehescheidung im Lande Oesterreich und im uebrigen Reichsgebiet" dated 6th July 1938 (RGBl I.p.807) is hereby repealed, All provisions of any carrying out laws, ordinances or decrees and of any other legislation which are inconsistent with the present law are also hereby repealed.

Section 80.

This law will become effective as from 1 March 1946.

Done at BERLIN, the 20th day of February 1946.

s/d P. KOENIG
General do Corps d'Armee

s/d G. ZHUKOV
Marshal of the Soviet Union

s/d JOSEPH T. McNARNEY
General U.S. Army

s/d H. M. BURROUGH
Admiral

COORDINATING COMMITTEE

MEASURES FOR PREVENTING THE SPREAD OF INFECTION
FROM ONE ZONE INTO ANOTHER DURING EXCHANGE OF EMIGRANTS

1. During the exchange between Allied Zones of German refugees and ex-Wehrmacht personnel there arises the danger of spreading infectious disease; in order to prevent this it is necessary to have a uniform system of counter epidemic measures which will be taken by the Allied Powers and the German self-government organisations.

2 The following measures are recommended with the object of preventing the spreading of infectious diseases:-

- (i) Camps must be set up for assembling refugees being removed to another zone.
- (ii) Besides living accommodation, the camps must have facilities for isolating persons suffering from infectious disease, and for sanitary treatment, isolation wards, Laths, disinfection and de-infestation.
- (iii) Constant medical supervision of the refugees is necessary in order to bring to light cases of infectious diseases as early as possible; for this the German self-government organisations must send doctors and nurses to each camp.
- (iv) The Camp Commandant and the doctor appointed by the German self-government organisation must be responsible for the sanitary maintenance of the camp and for the carrying out of counter-epidemic measures.
- (v) Persons suffering from or suspected of suffering from infectious diseases must be immediately isolated and then sent to hospital, from where they can be sent across the frontier of the zone only after complete recovery.

3. If there are cases of typhus, typhoid, paratyphoid and dysentery, the group of refugees who have been in contact with the sick persons must be placed in quarantine, for 14 days in the case of the typhoid group of diseases and 7 days in the case of dysentery.

They may be moved on only after the end of the quarantine period.

All prophylactic measures suitable for the types of diseases must be carried out in the quarantine group according to the instructions of the camp medical officer.

4. Any group of refugees and ex-Wehrmacht personnel crossing the zone frontier in a convoy, on a train, or on foot, must be accompanied to the frontier by medical personnel in the following proportion:

Up to 500 persons - 1 surgeon's assistant or nurse.

above 500 persons - 1 Doctor and 1 nurse with health passport in their charge.

The passport must contain the following data:

- (i) No. of refugees and ex-Wehrmacht personnel
- (ii) Town etc. or camp from which the refugees and ex-Wehrmacht personnel are travelling and date of departure from there.
- (iii) Whether there have been any cases of infectious diseases amongst the inhabitants of the town or camp before departure of the group and if so, which diseases.
- (iv) Whether there have been any cases of infectious diseases in the group en route; if so, the number of cases and treatment given.
- (v) Whether the group has been medically examined and disinfected before departure.

- (vi) The health passport must be signed by the Commandant of the group or convoy and the doctor or doctor's assistant and must be produced for inspection at the frontier by the Allied Power receiving the emigrants.

5. The health passport must accompany the group or convoy to the final destination of the last remaining person.

The Directorate of Internal Affairs and Communications acknowledges its responsibility for providing the surgeons, nurses and health passports referred to in the paper.

6. It is specified that all measures envisaged in this document will apply to inter-zonal movements in Germany only. The transfer of minorities coming from Poland, Czechoslovakia, etc., does not fall under the competency of the Directorate of Internal Affairs and Communications. The application of these measures to non-German refugees would necessitate diplomatic intervention with the governments of the countries concerned and could not be put into effect by order of the Allied Control Authority for Germany.

Approved at Berlin 25 February 1946

CORC/F(46)72

CONTROL COUNCIL

LAW NO. 17

AMENDMENT OF INHERITANCE TAX LAWS

Article I

The present inheritance tax rates on acquisitions by persons in Tax Class V (see Section 9 of the Inheritance Tax Law of 22 August 1925 as amended by the Law of 16 October 1934 (Erbschaftssteuergesetz)) apply to acquisitions by persons in all other tax classes. Section 10 of the said law is mended accordingly.

Article II

1. Sect5.cn 17b of the said law, as amended, is further amended as follows:

- (a) In subsection (1), the tax exemption (Freibetrag) for acquisitions by persons in tax class I is reduced from RM 30,000 to RM 10,000;
- (b) In subsection (2), the tax immunity limit (Bestimmungsgrenze) for acquisitions by persons in tax classes III and IV is reduced from RM 2,000 to RM 500, and the limitation of the amount of tax payable by persons in classes III, IV, and V to 50% of the excess of the acquisition over such tax immunity limit is repealed.

2. Section 17 (a) of the said law is repealed.

Article III

In addition to the exemptions specified in Article II, household effects (Hausrat) of such estate shall be exempt from tax irrespective of the Tax Class in which the person or persons acquiring them fall, up to a total value of 5,000 RM. If the value of such effects exceeds 5,000 RM, the exemption shall apply to the first 5,000 RM of the value thereof. The exemption shall be apportioned among the beneficiaries in accordance with the

actual division of such effects, Section 18 subsection (4) (a) of the law of 22 August 1925 as amended by the law of 16 October 1934 (Erbschaftssteuergesetz) is amended accordingly.

Article IV

All other German taxation legislation inconsistent with this law is repealed or mended in accordance with the provisions of this law.

Article V

The rates of tax specified in this Law will apply as from 1 January 1946.

Done at Berlin, the 28th day of February 1946.

s/d F. KOENIG
General de Corps d'Armee

s/d G. ZHUKOV
Marshal- of the Soviet Union

s/d LUCIUS D. CLAY
Lieutenant General, U.S.

s/d B. H. ROBERTSON
for B. L. MONTGOMERY
Field Marshal

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